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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/627,262	07/28/2000	Andrew Warner	977.035US1	2344

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EXAMINER
WACHSMAN, HAL D

ART UNIT	PAPER NUMBER
2857	

DATE MAILED: 08/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/627,262	WARNER, ANDREW	
	Examiner	Art Unit	
	Hal D Wachsman	2857	

-- The MAILING DATE of this communication appears on th cover sheet with the correspondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 May 2002* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 July 2000* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☒ The proposed drawing correction filed on *06 May 2002* is: a)☒ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.

EXAMINER

ART UNIT	PAPER
	7

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Hal D Wachsman
Primary Examiner
Art Unit: 2857

1. The drawing corrections to Figures 4-7 have been approved by the Examiner. However, Figures 1-3 are objected to because labeling (i.e. in words) is missing from a number of boxes that is needed to facilitate an understanding of the invention from the drawings. Appropriate correction is required.

2. The Abstract is objected to because the Abstract contains a certificate of mailing paragraph on the same page of the Abstract of the Disclosure. Appropriate correction is required.

3. The listing of references in the specification (see pages 6 and 7, for example) is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

4. Claims 1-12 are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 1, line 2, cites "RAS" which needs to be defined. This same type of problem also occurs in claim 7, line 1, claim 8, line 1, claim 10, line 5 and claim 11, line 5. Claim 1, line 4, cites "the bank of modems" however the antecedent basis is "plurality of modems". Claim 1, lines 5-6, cite "executing software in the test bed to establish a plurality of simultaneous connections" which is vague as to exactly what type of software is being used and how that software establishes the plurality of simultaneous connections. This same type of problem also occurs in claim 4, lines 8-9. Claim 3, line

3, cites "ISDN" which needs to be defined. This same type of problem also occurs in claim 6, line 2. Claim 4, line 5, cites "a plurality of modems" however is this the same plurality of modems already cited in the preamble ? Claim 5, line 5, cites "each connection" which it appears should be "each simultaneous connection". Claim 8, line 3, cites "capable of" which implies that the computer interface may or may not do what is claimed. Claim 8, lines 3-4, cite "a computer interface....communicating with a computer" which is a dangling feature because there is no connection to what comes before it in the claim as well as to what comes after it in the claim. Claim 9, line 2, cites "the adapter" which should be "the RAS concentrator adapter". The examiner asks the applicant to better claim the limitations cited above. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). The term "spoofing" or

"spoof" in claims 1-12 is used by the claim to mean "using a digital connection to spoof an analog modem. As stated in the specification, one embodiment of spoofing the communication server is to select options during the V.8 or V.8bis connection negotiations not normally selected by an analog modem allowing the RAS concentrator to spoof the availability of V.90 or K56 Flex analog-type modems," (see Applicant's remarks on page 3 of the Amendment filed 5-6-02) while the accepted meaning is "A technique often used to get a network device (which was not designed to work over a WAN) to work over; a slower or larger network than originally intended, or over a switched WAN connection (such as ISDN)." (See attached Computer Dictionary definition).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chau et al. (6,147,987) in view of Armistead et al. (6,260,071).

As per claim 7, Chau et al. disclose a network access server (i.e. RAS) comprising a processor and a telephone network interface connected to the processor (see at least abstract). Chau et al. does not explicitly disclose a RAS concentrator or

that the telephone network interface is a Public Switched Telephone Network interface connected to a processor. However, Armistead et al. teach the use of RAS concentrators with PSTN interfaces in large network access server systems that provide dial-up services (col. 1 lines 13-19, 32-37) across a PSTN. As for the "wherein the processor operates under program control....(PSTN) interface" this is functional language (see MPEP 2114) and claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Furthermore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Chau et al. to use a RAS concentrator with a PSTN interface instead of a network access server (i.e. RAS), because Armistead et al. teach the use of RAS concentrators with PSTN interfaces for the same purpose as a network access server (i.e. RAS), only on systems of a larger scale, and systems that use a PSTN. In addition, it would have also been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Armistead et al. to the invention of Chau et al. because as taught by Amistead et al. (col. 1 lines 32-34) a large NAS (which is found in Chau et al.) will typically be constructed from multiple remote access concentrators each having its own transmission facilities connecting it to the PSTN.

As per claim 8, Chau et al. (see at least abstract) disclose both the processor and the computer interface as described in lines 3-4 of the claim. Chau et al. does not explicitly disclose a RAS concentrator adapter or that the telephone network interface is a Public Switched Telephone Network interface connected to a processor. However, Armistead et al. teach the use of RAS concentrators with PSTN interfaces in large network access server systems that provide dial-up services (col. 1 lines 13-19, 32-37) across a PSTN. As for the "wherein the processor operates under program control to spoof.....(PSTN) interface" this is functional language (see MPEP 2114) and claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Furthermore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Chau et al. to use a RAS concentrator with a PSTN interface instead of a network access server (i.e. RAS), because Armistead et al. teach the use of RAS concentrators with PSTN interfaces for the same purpose as a network access server (i.e. RAS), only on systems of a larger scale, and systems that use a PSTN. In addition, it would have also been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Armistead et al. to the invention of Chau et al. because as taught by Amistead et al. (col. 1 lines 32-34) a large NAS (which is found in Chau et al.) will

typically be constructed from multiple remote access concentrators each having its own transmission facilities connecting it to the PSTN.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chau et al. (6,147,987) in view of Armistead et al. (6,260,071) as applied to claim 8 above, and further in view of Eng et al. (6,195,359).

As per claim 9, Eng et al. (Abstract, figure 3, col. 4 lines 55-67, col. 5 lines 1-3) teach the features of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Eng et al. to the inventions of Chau et al. and Armistead et al. as specified above because Eng et al. teach that a RAS can be implemented on an adapter card.

10. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armistead et al. (6,260,071) in view of Eckes et al. (6,243,832).

As per claim 10, Armistead et al. (see at least abstract) disclose the Public Switched Telephone Network, the processor as well as the Public Switched Telephone Network interface connected to the signal processor and the Public Switched Telephone Network. Armistead et al. (col. 1 lines 13-19, 32-37) disclose the "a RAS concentrator....and the Public Switched Telephone Network". It appears though that Armistead et al. does not explicitly disclose that the signal processor is as described in line 7 of the claim. However, Eckes et al. (Abstract, figure 2, col. 6 lines 14-24) teach this signal processor feature. As for the "wherein the signal processor operates under program control to spoof....(PSTN) interface", this is functional language (see MPEP 2114) and claims directed to an apparatus must be distinguished from the prior art in

terms of structure rather than function. In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. In addition, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Eckes et al. to the invention of Armistead et al. as specified above because Armistead et al. (col. 1 lines 13, 14, 25, 26) disclose a network access server and the MLP method which uses multiple modem connections while Eckes et al. teach network access server test system (see abstract) having a modem bank coupled to a network access server via a telephone switch.

As per claim 11, Armistead et al. (see at least abstract) disclose the communications medium, the processor as well as the communications interface connected to a signal processor and the communications medium. Armistead et al. (col. 1 lines 13-19, 32-37) disclose the "a RAS concentrator....and the communications medium". It appears though that Armistead et al. does not explicitly disclose that the signal processor is as described in line 7 of the claim. However, Eckes et al. (Abstract, figure 2, col. 6 lines 14-24) teach this signal processor feature. As for the "wherein the signal processor operates under program control to spoof....communications medium", this is functional language (see MPEP 2114) and claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). A claim containing a "recitation

with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. In addition, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Eckes et al. to the invention of Armistead et al. as specified above because Armistead et al. (col. 1 lines 13, 14, 25, 26) disclose a network access server and the MLP method which uses multiple modem connections while Eckes et al. teach network access server test system (see abstract) having a modem bank coupled to a network access server via a telephone switch.

As per claim 12, Armistead et al. (see at least abstract) disclose the feature of this claim.

11. The following references are cited as being art of additional general interest: Shiner (Computer Dictionary) which provides the definition of spoofing, Baum et al. which disclose a network access server modem spoofing a transmitting modem, Lee et al. which disclose a digital facsimile network with spoofing capability, Macdonald et al. which disclose implementing V.90 central site modem functionality at a customer premises and Mattathil which discloses spoofing network control packages.

12. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

13. No claims are allowed.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D Wachsman whose telephone number is 703-305-

9788. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Hal D Wachsman
Primary Examiner
Art Unit 2857

HW
August 7, 2002